

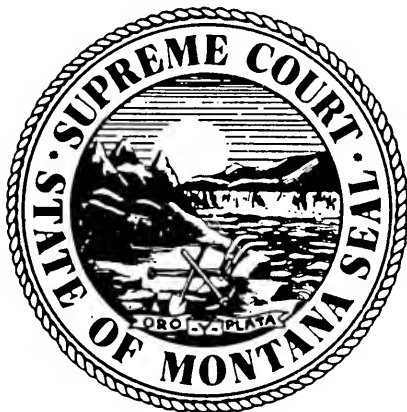
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1994 local citizen
review board pilot
program

MONTANA SUPREME COURT

REPORT OF THE

LOCAL CITIZEN REVIEW BOARD

PILOT PROGRAM



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Report of the local citizen review board



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The Supreme Court of Montana
Office of the Court Administrator



PATRICK A. CHENOVICK
Court Administrator

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December 22, 1994

TO: Governor Marc Racicot, Members of the 54th Montana Legislature, and concerned citizens of Montana

In accordance with section 41-3-1004(2), MCA, I am submitting the report of the activities of the Local Citizen Review Board Pilot Program Act, enacted by the 53rd Legislature.

This program was brought to life due to concerns of Montana citizens that wanted to improve the current system. The program was assigned to the Judicial Branch so that an independent program could take an outside look and give back unbiased reviews.

The pilot program has began and reviews performed. I believe that the program will offer positive results in the foster care and placement areas and that all Montana's will benefit.

Sincerely,

A handwritten signature in cursive script, reading "Patrick A. Chenovick".

Patrick A. Chenovick
Supreme Court Administrator

State Laws, Policies, and Practices Affecting Permanence and Appropriate Care for Children in Custody of the Department of Family Services and Other Agencies

Montana is a state of considerable diversity of geography, population, and child welfare resources. The geographic distances in the rural parts of the state create access problems to human service professionals such as psychologists and mental health counselors to assist in foster care and adoption cases.

There is no uniform family court system in Montana. County attorneys and judges are not always as informed as they should be regarding a child's need for a formal, permanent living arrangement in a timely manner. Because of heavy workloads, child protection cases do not always get the attention they deserve.

The Indian Child Welfare Act confers exclusive jurisdiction to tribal courts over any child custody proceeding involving an Indian child who resides on or is domiciled on the reservation or is a ward of the tribal court. This means that only the tribal courts have the power to decide child custody matters concerning Indian children living on the reservation or who are wards of the tribal court. There are seven Indian reservations within the boundaries of the state of Montana.

Based on the 1990 census report, Montana has a population of 822,347. The Native American population is 5.97% of the general population. According to the census report, there were 222,104 children and youth under the age of 18. During the same year, 3,442 children were placed in out-of-home care. This translates into an out-of-home placement rate of approximately 1.5 children for every 100 children under 18 years of age. The out-of-home placement rate has risen much faster than the population has grown. Between 1990 and 1992, the population of the state increased by 2.9%. At the same time, the number of children placed in out-of-home care by the Department of Family Services increased by 11.5%. Native American children are significantly over-represented in out-of-home care. About 24% of the children in out-of-home care in FY93 were native American.

Today in Montana over 500 of the approximately 1,850 children placed in out-of-home care have been in foster care for at least two years. Montana has experienced a fifty percent increase in out-of-home placements in the past decade. From FY82 to FY93 there has been a 216% increase in the number of children involved in investigations of child abuse and neglect. The increase in cases has significantly impacted the workload of child protective services staff, court personnel, and others involved in the child welfare system.

Fortunately, there are many individuals both within and outside Montana's child welfare system who believe that we cannot assume that children are okay until they are in safe, permanent homes. Many critical pieces are already in place. In 1993, the Montana Legislature enacted the Family Policy Act, which recognizes the family as the most powerful influence in the social, mental, and physical well-being of children. The Act shifts the emphasis from treatment and out-of-home care for children who are abused and neglected to more preventative measures that support and preserve families. During the same session, the legislature also created the Interagency Coordinating Council of Prevention (ICC) and a legislative joint oversight committee on children and families, new bodies indicative of the growing interest in and support for system change.

The Department of Family Services is implementing the DFS Partnership Project, which focuses greater resources on family support and preservation. Managing Resources Montana provides coordinated community-based and least restrictive services in an affordable manner to children and youth who suffer from serious emotional disturbances. The juvenile corrections system is undergoing reform to reduce the state's over-reliance on secure facilities for delinquent youth by strengthening community-based corrections. The Montana Families for Kids project, funded by a grant from the W.K. Kellogg Foundation, focuses greater emphasis on permanency planning and on finding permanent homes for children not returning to their birth families. The 1993 Montana legislature also granted funds to the Department of Family Services to develop a case support and management information system (CAPS) capable of providing crucial data.

The Montana Supreme Court has just been awarded a federal grant to pursue a court improvement program for state court assessment and implementation of reforms to improve the handling of proceedings relating to foster care and adoption. The State Court Improvement Program provides new federal funds for preventative services and services to families at risk or in crisis. The purpose is to achieve improved well-being for vulnerable children and their families.

The Citizen Review Board Pilot Program Act was another piece of legislation passed by the 1993 Montana legislature. Patterned after successful programs in Oregon and 21 other states, the Act created a system of citizen review boards which act under the administration of the courts and which review the case of each child placed in out-of-home care every six months. The boards send recommendations regarding cases reviewed to the district court and to the Department of Family Services. This operates as a check and balance on the placement of children by DFS, and as an avenue for advocacy for children in foster care and for the foster care system.

Chronology of Montana's Citizen Review Board Program

The Citizen Review Board pilot program was established by the 1993 legislature. In the November-December 1993 special session, the legislature clarified the pilot program act to provide that the Montana Supreme Court Administrator's office would act as the administrative body for the program.

Questionnaires were sent to every Montana district judge, seeking interest in the pilot program. In May 1994, a screening committee composed of Sen. Judy Jacobson, Rep. John Cobb, District Judge Kenneth Wilson, and Supreme Court Administrator Patrick Chenovick selected sites for the pilot program, based on the responses to the questionnaires. The screening committee selected sites and prioritized them in the following order: first, the Fourth Judicial District (Missoula); second, the Second Judicial District (Butte); third, the Eighteenth Judicial District (Bozeman); fourth, the First Judicial District (Helena); and fifth, the Eighth Judicial District (Great Falls).

We obtained information and materials from citizen review board programs in Oregon, Arizona, Iowa, Kansas, and Michigan. Because the statutes creating Montana's pilot program are patterned after Oregon statutes, we felt information about the Oregon program would be extremely helpful. We met with staff from the Oregon program on two occasions. They shared with us their expertise on meeting federal requirements, scheduling and conducting reviews, and on volunteer recruitment and training. We participated in the training given to volunteers in Oregon, and are using a modified version of that training for Montana volunteers.

We are in continuing contact with the Department of Family Services to coordinate this program with that agency.

An article was placed in the Missoulian to make the community aware of the pilot project. We distributed over 100 volunteer recruitment packets in the Missoula area, each of which contained an overview of information about the program, a volunteer position description, and an application form. We received about two applications for each volunteer position.

As a result of the recruitment efforts, in October 1994, fifteen Citizen Review Board volunteers were selected by Judges McLean, Harkin, Henson, and Larson to serve on review boards in the Fourth Judicial District. Because of the large number of children in foster care in that judicial district, three review boards were created, so that each board of volunteers need meet only one day per month. A training session for board members was held on November 18, 1994. Each board member took an oath to keep confidential the information disclosed during reviews.

The combined experience and background of the volunteers is formidable: they include a teacher, former foster parents, former DFS caseworkers, attorneys, a former tribal court chief judge, a social work professor, a nurse, chemical

dependency counselors, the co-founder of a parenting support and education program, and a CASA volunteer. The volunteers have well over 150 years of combined parenting experience.

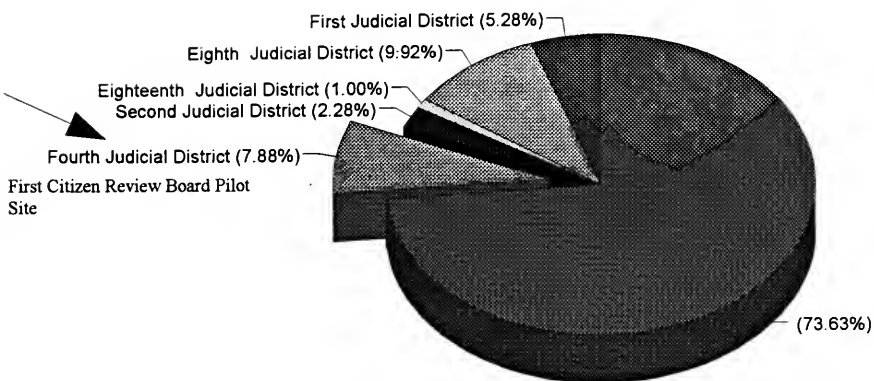
The first reviews were held on December 6, 7, and 8, 1994. The boards conducted twelve reviews, four of which involved groups of siblings, making a total of eighteen children. Persons who attended the reviews included parents, grandparents, an adult sibling, foster parents and other substitute care providers, attorneys for the children and for parents, mature children, and caseworkers. Two reviews were continued for one month because of the absence of the caseworker. In four cases, the boards specifically commended the Department of Family Services and the substitute care providers for their dedication and efforts. The boards made recommendations for significant action by the Department of Family Services in the cases of seven children.

The boards' findings and recommendations from those reviews have been transmitted to the Fourth Judicial District Court, to the Department of Family Services, and to the parties.

A bill will be introduced in this legislative session to extend the pilot project for two years and expand the sites to include the five areas as shown on the graph.

Children In Foster Care In Montana

Pilot Sites Percent of Total Placement



Based on the number of children in foster care in Montana in July 1994, placements = 1840. Of this total 24% are Native American children.

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